

May 7, 2003

1 IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

2 MARTHA HART, et al.

3 Plaintiff;

4 - No. 99CV-21074

5 WORLD WRESTLING ENTERTAINMENT, INC., et al.

6 Defendants and
7 Third-Party Plaintiffs;

8 LEWMAR, LIMITED and LEWMAR, INC., formerly
known as LEWMAR MARINE, INC.

9 Third-Party Defendants.

10 VIDEOTAPED DEPOSITION OF

11 WITNESS: CHRISTOPHER BARBEAU

12 LOCATION: Miller, Canfield, Paddock and Stone
13 101 North Main Street, 7th Floor
Ann Arbor, Michigan 48104

14 DATE: May 7, 2003

15 1:18 p.m.

16 APPEARANCES:

17 FOR PLAINTIFF: POLAND & WHALEN, P.C.
911 Main Street, 29th Floor
Kansas City, MO 64106

18 BY: MR. WILLIAM F. LOGAN

19 FOR DEFENDANT: BRYAN CAVE, LLP
One Kansas City Place
1200 Main Street, Ste. 2000
Kansas City, MO 64108-2101

20 BY: MR. JULIET A. COX

21 OFFICIATING JUDGE: Carl D. Gumm, Jr.

22 Senior Judge of the State of Missouri

23 REPORTER: Laurel A. Jacoby, CSR-5099, RPR

24

25

1 Ann Arbor, Michigan

2 May 7, 2003

3 1:18 p.m.

4

5 VIDEO TECHNICIAN: Today's date is May
6 the 7th, the year 2003 and we're on the record at
7 1:18 p.m. This is the video deposition of
8 Mr. Chris Barbeau. We're at the law offices of
9 Miller, Canfield, Paddock and Stone in Ann Arbor,
10 Michigan.

11 This is the matter of Hart versus the
12 World Wrestling Entertainment, Inc. versus Lewmar
13 Limited. This case is pending in Jackson County,
14 Missouri, Circuit Court Case No. 99 CV-21074.
15 Counselors and our judge, could you put your
16 appearance on the record, please.

17 MS. COX: Juliet Cox on behalf of
18 World Wrestling Entertainment, Inc.

19 MR. LOGAN: William Logan on behalf of
20 third-party defendants, Lewmar Limited and Lewmar,
21 Inc.

22 JUDGE GUM: Judge Carl Gumm, Special Master
23 appointed for purposes of discovery.

24 ~CHRISTOPHER BARBEAU~
25 called as a witness by the Defendant, being first

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7 EXHIBIT INDEX

8 EXHIBIT NO.	DESCRIPTION	PAGE NO.:
9 No. 1	Description of Ring of Steel Action 10 Theater from web pag	9
11 No. 2	Amespec invoice to Ring of Steel	34
12 No. 3	Page from Lewmar catalog	40
13 No. 4	Lewmar trigger-latch shackle 14 purchased from Amespec by 15 Ring of Steel Action Theater	44
16 (Revised)		
17 No. 5	Gibb shackle	106
18 (Revised)		

1 daily sworn, was examined and testified as follows:

2 EXAMINATION

3 BY MS. COX:

4 Q. Mr. Barbeau, before we began, I asked you whether
5 you'd given a deposition before and you have not; is
6 that correct?

7 A. That is correct.

8 Q. Before we get into the meat of what we're going to
9 do today, I was going to go over kind of what you
10 should expect. Basically, what we are here to do is
11 to find out some information that you have that has
12 some relevance to the lawsuit that is currently
13 pending in Jackson County, Missouri.

14 I will be asking you questions. Basically
15 you and I are just going to have a conversation
16 covering certain topics and hopefully it won't take
17 too much of your time today.

18 When I'm finished, then Mr. Logan will have
19 a chance to ask some follow-up questions and that
20 may or may not go back and forth a little bit and
21 then we'll be finished. There aren't any rules,
22 per se, except that everything we are saying today
23 is being recorded. So if a question requires like a
24 yes or a no type of answer, if you could say that
25 rather than uh-huh or nodding your head.

1 (Pages 1 to 4)

1 A. Certainly.
 2 Q. So that it can be taken down.
 3 If I ask you any questions that are
 4 confusing or that you don't understand what it is
 5 I'm saying, because I will occasionally trip up on
 6 my words, please ask me to just clarify. I'd be
 7 happy to do that. Okay?
 8 A. Yes.
 9 Q. Okay. And other than that, I think we're ready to
 10 go.
 11 A. All right.
 12 Q. All right. Mr. Barbeau, would you please state your
 13 name?
 14 A. Christopher C. Barbeau.
 15 Q. And where are you currently employed?
 16 A. It depends on in what capacity. I work for the
 17 University of Michigan. I also own two of my own
 18 companies where I'm one of one or more employees,
 19 and I work at the Michigan Opera Theater as a stunt
 20 coordinator and director down there.
 21 So do you want me to list all of those
 22 hastily?
 23 Q. Well, let's just start with the University of
 24 Michigan, which you mentioned first. What do you do
 25 for the University of Michigan?

1 A. I manage a significant portion of the computing
 2 infrastructure that occurs here at the university
 3 for student use.
 4 Q. Okay. And then you said you owned two separate
 5 businesses?
 6 A. Correct. I own and am the executive director of the
 7 Ring of Steel Action Theater.
 8 Q. Okay. And the other one?
 9 A. I own and am employed by Myrmidon Press and
 10 Photography where I function as a professional
 11 photographer and videographer. At the Michigan
 12 Opera Theater, I am a staff - I'm their staff stunt
 13 coordinator and I am their staff photographer.
 14 Q. Okay. And the Ring of Steel, is that involved in
 15 stunts as well?
 16 A. Yes.
 17 Q. How long have you been involved in some capacity in
 18 the stunt industry?
 19 A. Since 1974.
 20 Q. So close to 30 years?
 21 A. Correct.
 22 Q. And do you perform stunts?
 23 A. Yes.
 24 Q. When did you first begin performing stunts?
 25 A. I got paid for my first stunt at 11 years old. I

5
 1 think that I was probably performing stunts before
 2 that time.
 3 Q. And have you also been performing stunts for 30 plus
 4 years?
 5 A. Yes.
 6 Q. Have you received any formal type of training for
 7 stunt performance?
 8 A. Yes.
 9 Q. What is that?
 10 A. I have attended - every six months or so I attend
 11 a workshop on various aspects of the stunt industry.
 12 My specialty happens to be theatrical combat,
 13 specifically sword play; however, I have attended
 14 and taken classes for high falls, flying, fire work,
 15 stunt driving. In fact, that was my first union job
 16 was as a stunt driver for the Blues Brothers movie.
 17 Q. And do you also engage in rigging stunts?
 18 A. Yes.
 19 Q. How long have you been doing that?
 20 A. I probably rigged my first stunt at around 17, so -
 21 Q. When you were 17 years old?
 22 A. Yes. So that would have been 1982 or '81.
 23 Q. And have you been involved in some capacity rigging
 24 stunts since that time?
 25 A. Yes. I was the fight director for several years,

6
 1 four years, of the Michigan Renaissance Festival and
 2 both rigged and performed many stunts during that
 3 time.
 4 Q. And are you engaged in stunt rigging in connection
 5 with your work with the Michigan Opera Theater?
 6 A. I consult on it. To date, they haven't actually
 7 needed very much. I've only been performing in this
 8 role for about two years now.
 9 Q. Okay. Have you received any formal training in
 10 stunt rigging?
 11 A. No.
 12 Q. Is there any formal training in stunt rigging that
 13 you are aware of?
 14 A. None of which I am aware.
 15 Q. Could you please tell the jury what Ring of Steel
 16 is, what its business is?
 17 A. The Ring of Steel Action Theater has two principal
 18 roles. We have an educational arm that goes into
 19 schools and performs lecture demonstrations where we
 20 will lecture on various topics associated with
 21 historical violence and its appearance in the
 22 theater and then we will perform demonstration
 23 fights and/or stunts. Those stunts usually include
 24 high falls. We don't perform fire stunts within
 25 school districts. And no firearms after 1987 in

1 school districts either.

2 The other arm is a performance troupe where
3 we train people who are interested in stunt work and
4 give them opportunities to perform by farming them
5 out in the area. We also consult for community
6 theaters and high school theaters and professional
7 theater in the area. Essentially, anyone who would
8 like to pay us to come in and help them make certain
9 their stunt work is safe.

10 I would, if you don't mind, like to go back
11 to the formal training on rigging. I have taken
12 classes in climbing.

13 Q. Okay.

14 A. And you use aspects of that within stunt rigging.

15 Q. That would be rock climbing or mountain climbing?

16 A. Correct. Both interior artificial walls and free
climbing.

17 Q. And when did you first take classes in climbing?

18 A. That would have been 1988, '89.

19 Q. Do you have any certification in that area?

20 A. No.

21

22 (Deposition Exhibit No. 1 was marked.)

23

24 BY MS. COX:

10 1 Q. Mr. Barbeau, I have just handed you what we have
2 marked for your deposition - for your testimony
3 today as Exhibit 1. Do you recognize the document I
4 just handed you?

5 A. Yes.

6 Q. And what is it?

7 A. This is an extract of our web pages where we discuss
8 exactly what the - well, in a broad sense, what the
9 Ring of Steel can provide and what it does.

10 Q. Okay. And are you familiar with the contents that
11 are set forth on this printout from your website?

12 A. I have seen it before, yes.

13 Q. Okay. If you need to review it, you may. But the
14 question that I have for you is whether the
15 information that is provided in here is an accurate
16 description of both your qualifications and the
17 qualifications of those who work with you in Ring of
18 Steel?

19 A. It's a little out of date in the sense that it
20 hasn't been updated in probably three or four years.
21 We were the 6,100th some website in existence.
22 Being a computer person, I got us on the web nice
23 and early. So it's a couple years out of date.

24 Q. Okay.

25 A. However, it is - with respect to the number of

11 1 years that I've been doing this, it's obviously a
2 couple years behind. The number of shows that we've
3 done and where we now have 25 feature film credits,
4 not 18.

5 Q. Okay. Great.

6 A. So a couple things are a little out of date. As far
7 as the list of shows that we've staged is now very
8 much out of date and was never inclusive. It was
9 just to give people a flavor for the type of shows
10 that we have choreographed.

11 Q. Sure.

12 A. As far as not currently engaging in horse stunts, we
13 now do engage in horse stunts or we've returned to
14 horse stunts. I was a joustier when I was young and
15 a couple of our younger guys have decided to take
16 that route, so we now have joustiers in the troupe
17 again. And the stock of equipment is very much out
18 of date. We probably have another hundred thousand
19 dollars worth of equipment since this list was
20 compiled.

21 Q. Okay.

22 A. Lectures and workshops don't change too much.
23 Training, we also include knife training now. And
24 I'll have to let our web folk know to update this.

25 Q. Well, let me ask you this: Is there anything on

12 1 here - other than what may be under inclusive, is
2 there anything that isn't accurate?

3 A. We no longer own a 16-foot cube van.

4 Q. Okay.

5 A. No, this is still accurate to the - this is still
6 accurate for the greater part. There's nothing here
7 that we don't do or have except for a couple of
8 items.

9 Q. Okay. If I could direct your attention to the first
10 page of Exhibit 1.

11 A. Certainly.

12 Q. And at the end of the first paragraph it says: The
13 Ring of Steel is the largest theatrical combat,
14 stunt and special effects troupe in the country and
15 the fight stunt arrangers for the Michigan Open
16 Theater. Is that still correct?

17 A. The correction to that statement would be we are the
18 largest single location group there is. There is a
19 group now in Florida that is in seven locations that
20 has more membership than we do if you count all
21 seven locations.

22 Q. Okay.

23 A. So that is still accurate. We have very close to a
24 hundred members. The entire Society of American
25 Fight Directors has 600 members across the whole

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1 and lacks foundation.

2 JUDGE GUM: Overruled.

3 BY MS. COX:

4 Q. Did you understand the question?

5 A. I believe so.

6 Q. Okay. Then you may answer.

7 A. The standards that I apply when rigging a stunt are
8 consistent to what I have observed from other stunt
9 riggers.

10 Q. And as I understood what you are describing and the
11 manner in which you learned to rig stunts was
12 basically by watching and doing and learning from
13 others?

14 A. Correct.

15 Q. And is it your understanding that that is how most
16 stunt rigging is learned?

17 MR. LOGAN: Object to the form of the
18 question, calls for speculation.

19 JUDGE GUM: Overruled. He may answer if he
20 knows.

21 THE WITNESS: In this particular industry,
22 many people learn by being apprentices, and that is
23 the path that I followed and the path that people
24 who are studying with me follow.

25 BY MS. COX:

17

19

1 Q. Have you ever seen a stunt or are you familiar with
2 any stunts where a person is lowered from a ceiling
3 down to the ground?

4 A. Yes.

5 Q. And what term do you use for that type of stunt?

6 A. We call that a fly.

7 Q. And would you call it a fly or a fly-in stunt?
8 regardless of whether it's a direct vertical descent
9 or if it is a diagonal entry?

10 A. Any time that we support the human body and we raise
11 it off the floor, whether it is in a descending mode
12 or an ascending mode, we consider that a fly.

13 Q. So that if I used the term fly - a flying stunt as
14 we talk today, that will refer to - can we agree
15 that that will refer to any time the human body is
16 supported off the ground?

17 A. Yes.

18 Q. And I want to make sure that the jury and that we -
19 that I understand fully what your testimony is.
20 When we use the word to rig a stunt, what exactly
21 does that mean?

22 A. It's very specific to the stunt, but rigging a stunt
23 means providing any necessary infrastructure for the
24 stunt - the desired stunt to take place. We're
25 hired to fulfill very specific functions. So a

1 Q. Okay.

2 A. To the extent that we even called our trainees up
3 through various levels, at the highest level they
4 become journeymen which is the same in any trade
5 that you have learned by studying with a master.

6 Q. Now, when you use the term apprentice and
7 journeyman, is there a formal designation of
8 apprentice and journeyman in stunt rigging or are
9 you using those terms to convey to us and to the
10 jury the method that somebody learns from the
11 teacher?

12 A. I'm using it to convey that method. There are, to
13 the best of my knowledge, no national standards
14 associated with certifying someone in rigging for
15 stunts. You can be certified in stage rigging but
16 that is not stunts and has nothing to do with stunt
17 rigging.

18 Q. And stage rigging would be things like rigging
19 lighting?

20 A. Hanging things from within a theater system for
21 hanging.

22 Q. Such as audio equipment and lighting?

23 A. Backdrops.

24 Q. Okay.

25 A. Set pieces that fly in and out.

18

20

1 stunt might be as simple as placing a charge at a
2 particular point that's detonated under certain
3 circumstances. It may be as complicated as setting
4 up a huge scaffolding that is designed to support an
5 individual and/or more than one individual such that
6 they are - they could be lifted and transported
7 around the stage.

8 So to rig a stunt includes all the aspects
9 of that.

10 Q. Okay. And when you use the term to provide the
11 infrastructure, would it be fair to call that the
12 equipment?

13 A. Yes.

14 Q. So how do you determine when you are rigging a stunt
15 what equipment you will use?

16 A. It's very specific to the stunt.

17 Q. So it depends on what is required by the stunt?

18 A. Yes. And it's sometimes specific to the individual
19 performing the stunt.

20 Q. Can you explain what you mean by that?

21 A. The body weight of the individual. If I'm flying a
22 350-pound man - and I'm couching this in flying
23 terms since that seems to be the topic at hand -
24 the precautions I will take are considerably
25 different than the ones I would take with a 95-pound

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1 looking for at least a thousand pounds of lift
2 capacity rated and then, of course, the equipment
3 that's rated, that often has another safety margin
4 on top of that.

5 We explain to them that we will often
6 demonstrate it with one of our professionals before
7 so that they have a mental image of what it's going
8 to look like.

9 Q. So if I can just clarify that.

10 A. This all depends on how uncomfortable they are too.

11 Q. Sure. If I can clarify that. When you say to
12 demonstrate it, if you were doing a descent -

13 A. Yes.

14 Q. - from a ceiling to the floor, -

15 A. Yes.

16 Q. - you would have one of your people put on the
17 equipment, execute the descent?

18 A. Correct.

19 Q. Okay. And that would be the demonstration that
20 you're referring to?

21 A. Yes.

22 Q. Okay. And then would you - then you would also
23 allow the performer to execute the descent?

24 A. Yes. They would simply be lifted, become
25 comfortable with the equipment, perhaps as little as

31 1 Q. Such as?
2 A. Stunt gel for burns, that sort of thing. You know,
3 Nomex suits. I don't get that from AmSpec.
4 Q. And exactly what does AmSpec produce?

5 A. They -

6 MR. LOGAN: Object to the form of the
7 question, calls for speculation.

8 JUDGE GUM: Overruled.

9 THE WITNESS: Their catalog enumerates a
10 wide variety of devices for hoisting and supporting
11 the human body that are worn.

12 BY MS. COX:

13 Q. Okay. And then when you rig a stunt - and let's
14 focus our conversation on ascents and descents.

15 A. Okay.

16 Q. When you rig a descent or an ascent, is there
17 hardware that you utilize?

18 A. Yes.

19 Q. And what do you call that hardware? Well, that's a
20 bad question because I know there's a lot of
21 different stuff that - the question was vague.

22 So let me ask you this: Are you aware of
23 any company that manufactures hardware that can be
24 used in ascents and descents that the company
25 manufactures it solely for use in stunts?

30 1 six inches off the floor, raising them gradually
2 until - if they have a fear of heights it can take
3 a couple of hours to get them to trust the equipment
4 sufficiently. I've never had anybody go longer than
5 that. Then we have - we'll start the actual
6 rehearsal process with them executing the stunt.

7 Q. And once they convey to you that they're comfortable
8 with it, then is that all the assurance you're
9 looking for?

10 A. Correct. It's the actor comfort and that the
11 director is seeing what he wants to see.

12 Q. Okay.

13 A. I have had executive producers decide that they
14 thought it looked too dangerous.

15 Q. Are you aware of any company that manufactures
16 hardware solely for use in stunts?

17 A. Hardware?

18 Q. Equipment.

19 A. Yes.

20 Q. And who is that?

21 A. AmSpec Stunt Sewing team.

22 Q. Any others?

23 A. Depending on the equipment. For flying, AmSpec is
24 where we go. I am aware of others but they produce
25 other types of equipment.

32 1 A. Solely for use in stunts?
2 Q. Yes.
3 A. No.
4 Q. Tell me what hardware would be required to rig an
5 ascent or descent.

6 MR. LOGAN: Object to the form of the
7 question as vague and ambiguous.

8 JUDGE GUM: Overruled. He may answer if he
9 knows.

10 THE WITNESS: The type of equipment
11 selected would depend very much on the look the
12 director wished to achieve. In the case of
13 something like Peter Pan, we don't want the cable
14 visible so we would use a fine stranded steel cable.

15 BY MS. COX:

16 Q. Uh-huh.

17 A. In the case of a stunt where it did not matter, for
18 instance, our pirate magic danger show where the
19 pirates are obviously swinging in on ropes, in that
20 case the ropes can be clearly visible so we would
21 use ropes. The attachment point to the individual
22 performer would typically be one of these AmSpec
23 vests or shorts. Those are the two items that we
24 have. They do sell full suits designed for multiple
25 point lifts. And we use climbing hardware that's

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1 designed for commercial climbing to attach.
2 In the case where an individual needs to be
3 quickly – to quickly get off of the lift equipment,
4 we have used as a safety a quick-release turnbuckle
5 that we purchased from AmSpec.
6 Q. Let's talk about specifically the attachment that
7 you use in between the rope or the wire and the vest
8 that the actor is wearing. And you mentioned that
9 you use quick – you have used quick releases?
10 A. Yes.
11 Q. And in what type of – in what situation would you
12 choose to use a quick release?
13 A. In an instance where the actor needed to immediately
14 continue in the execution of their performance after
15 landing such that they could no longer be attached
16 or would leave the area where the lift/descent had
17 to occur.
18 Q. And the quick releases that you have used for that,
19 have you used more than one kind?
20 A. No. We've only used the single item we received
21 from AmSpec.
22 Q. Is that what, a Lewmar trigger-latch shackle?
23 A. Yes. I believe Lewmar is the manufacturer. It is a
24 trigger-latch shackle.
25

33

35

1 recollection – well, does that appear to be the
2 trigger-latch shackle that you purchased?
3 MR. LOGAN: Object to the form of the
4 question, lacks foundation, vague and ambiguous. I
5 think it's leading also.
6 JUDGE GUM: Objection will be sustained as
7 to leading.
8 BY MS. COX:
9 Q. Can you please tell me on this document if it refers
10 to the trigger-latch shackle that you purchased from
11 AmSpec?
12 A. Line five in the item section refers to the best of
13 my recollection to the quick-release shackle that we
14 requested from AmSpec.
15 Q. Okay. Line five says: Snap shackle quick release
16 No. 5120; is that correct?
17 A. Correct.
18 Q. And what was the purchase price for that shackle?
19 A. One hundred dollars.
20 Q. Could you please describe for the jury different
21 ways in which you have used the Lewmar trigger-latch
22 shackle.
23 MR. LOGAN: I'm going to object to the form
24 of the question as it misstates his prior testimony.
25 Mr. Barbeau testified he did not recall whether the

34

36

1 (Deposition Exhibit No. 2 was marked.)
2
3 THE WITNESS: What year did we buy it?
4 BY MS. COX:
5 Q. I'm going to hand you now what has been marked as
6 Exhibit 2.
7 A. Okay. I looked for the invoice and we weren't able
8 to locate it.
9 Q. Okay. Do you recognize what has been marked as
10 Exhibit 2?
11 A. Yes.
12 Q. What is that?
13 A. That is an invoice to the Ring of Steel from AmSpec
14 Stunt Sewing Team.
15 Q. What date was this invoice?
16 A. 1998.
17 Q. And was it June 30th of 1998?
18 A. Correct.
19 Q. And in your recollection that oo or around
20 June 30th, 1998 is when you purchased from AmSpec a
21 trigger-latch shackle?
22 A. Yes.
23 Q. If you'll look at the final item on Exhibit No. 2,
24 it shows snap shackle quick release No. 5120 for one
25 hundred dollars. Is that consistent with your

1 quick release provided by AmSpec on invoice
2 No. Exhibit 2 was a Lewmar trigger-latch shackle.
3 MS. COX: Let's take a break.
4 VIDEO TECHNICIAN: Off the record at
5 2:01 p.m.
6 MR. LOGAN: Before we go off the record,
7 can we rule on the objection?
8 MS. COX: I'm going to go get it and show
9 it to him.
10 JUDGE GUM: Objection – the objection will
11 be sustained. We'll take a break.
12 (A brief recess was taken.)
13 VIDEO TECHNICIAN: We're back on the record
14 at 2:11 p.m.
15 BY MS. COX:
16 Q. Mr. Barbeau, I'm going to hand you a Lewmar
17 trigger-latch shackle, if you could take a look at
18 that.
19 A. Uh-huh.
20 Q. Does that appear to you to be the same trigger-latch
21 shackle?
22 A. It does appear to be the same.
23 Q. And if, in fact, the No. 5120 which is on Exhibit 2,
24 the invoice, matches both the AmSpec catalog and
25 Lewmar's internal numbers, referencing the

9 (Pages 33 to 36)

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1 document that he's never seen before, not testifying
2 on personal knowledge.

3 JUDGE GUM: Well, the representation to the
4 witness was that this is a page out of the Amspec
5 catalog and he has testified that he has - he's
6 familiar with the catalog; is that correct?

7 MS. COX: No. Actually, this is a page out
8 of a Lewmar catalog, but my question was -

9 JUDGE GUM: Well, the objection will be
10 sustained.

11 MS. COX: My question, though, was simply
12 whether this depiction, the photograph, depicts the
13 trigger-latch shackle that he purchased from Amspec.

14 MR. LOGAN: Same objection.

15 MS. COX: And it does.

16 MR. LOGAN: Same objection, Your Honor.
17 And even further, the qualification of the end of
18 counsel's statement is objected to. Mr. Barbeau has
19 not seen this document before and he's being asked
20 to interpret a document that he's never seen before
21 and he's not testifying as to his personal
22 knowledge.

23 JUDGE GUM: Well, whether or not he's seen
24 the document before is immaterial. It's whether or
25 not he recognizes the items that are depicted on the

41 1 Q. But you essentially do know what the trigger-latch
2 shackle you purchased looks like; is that correct?

3 A. That's correct.

4 Q. And does it appear to be the same trigger-latch
5 shackle?

6 A. It does appear to be the same.

7 Q. Yes. Where is the trigger-latch shackle that you
8 own currently?

9 A. It should be in our flying rigging box which is
10 stored in one of our storage facilities. I'm not
11 certain exactly what the location would be at this
12 moment. Meaning how fast could I get it?

13 Q. Or have somebody verify that it says Lewmar on it.

14 A. We're not staffed during the day. We're a nighttime
15 operation so - I mean, we're a theater troupe. So
16 if it is where I believe it to be, it would take -
17 I would have to go to it, and it would take me at
18 least a half an hour to get there.

19 Q. To get there, not to get there and get back?

20 A. Correct.

21 Q. Okay. Let's -

22 A. I am, in fact, happy to provide the item in question
23 at any point.

24 Q. Okay.

25 MS. COX: Let's go off the record and take

42 1 document.

2 So you may testify as to whether or not you
3 recognize the items that are depicted on the
4 document.

5 THE WITNESS: The Xerox copy of this
6 document appears to represent the shackle that both
7 you have shown me and that I have in my possession.

8 BY MS. COX:

9 Q. Okay.

10 A. I have, however, never seen this particular
11 depiction of it prior to this.

12 Q. You've not seen an actual Lewmar catalog?

13 A. Correct.

14 Q. But you have seen an Amspec catalog?

15 A. Correct.

16 Q. And the Amspec catalog also had depictions in it of
17 the trigger-latch shackle that you purchased?

18 MR. LOGAN: Objection to the form of the
19 question.

20 JUDGE GUM: Sustained.

21 BY MS. COX:

22 Q. Did the Amspec catalog that you reviewed have in it
23 a picture of the trigger-latch shackle that you
24 purchased?

25 A. I don't recall.

43 1 a break.

2 VIDEO TECHNICIAN: Off the record 2:19 p.m.
3 (A brief recess was taken.)

4 (Deposition Exhibit No. 4 was marked.)

5 VIDEO TECHNICIAN: We're back on the record
6 at 4:10 p.m.

7 BY MS. COX:

8 Q. Mr. Barbeau, have you now obtained the actual
9 trigger-latch shackle that you purchased from
10 Amspec, Inc.?

11 A. Yes.

12 Q. And is it this trigger-latch shackle which has been
13 marked as Exhibit No. 4?

14 A. Yes, it is.

15 Q. Okay. And can you tell from looking at that who the
16 manufacturer of that trigger-latch shackle is?

17 A. Lewmar - England is on the device.

18 Q. What it says. And the Lewmar trigger-latch shackle
19 that had previously been marked in a deposition as
20 Plaintiff's Exhibit 10 that I am holding, I'm going
21 to hand this to you and ask you to compare the two
22 and tell me if they appear to be the same type of
23 shackle.

24 A. Yes, they appear to be the same type of shackle.

25 Q. Obviously, they're not the same shackle?

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1 A. Correct.
2 Q. But they're the same model of shackle?
3 A. Yes.
4 Q. Okay. Did you only purchase one of these shackles
5 from AmSpec?
6 A. Yes, we did.
7 Q. And have you only purchased one of these shackles,
8 period?
9 A. Yes, we only own one of these shackles.
10 Q. Okay. And from Exhibit 2, then, can you tell what
11 the number is that Lewmar or, I'm sorry, that AmSpec
12 is using to identify that particular shackle?
13 A. No. 5120.
14 Q. Could you now, if you would, please, describe for
15 the jury the ways in which you have used the Lewmar
16 trigger-latch shackle.
17 A. We have used this as the primary suspension point
18 for an actor/performer. None of the actors have
19 exceeded about 180 pounds, and this has been used to
20 affix to an attach point on their harness that
21 they're wearing and then the top was affixed via a
22 carabiner both to a rope and to a steel cable and
23 to a kevlar cable. I've used all three at times.
24 Q. So you've used that particular shackle on more than
25 one occasion?

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1 A. The performer, she was wearing a pair of shorts, fly
2 shorts, and this was attached to the side of the fly
3 shorts. There's a soft pick point - technical
4 term - essentially, a nylon loop that has been
5 made out of a ballistic nylon that's been sewn onto
6 the side of the shorts, and this was passed through
7 that. And then while it was already preattached to
8 a steel cable, the individual performer would slide
9 this through connecting herself to it, close it, and
10 then she stepped out into the air and was lowered
11 down.
12 Q. And how far off the ground was she when she stepped
13 out into the air?
14 A. Ten or 12 feet.
15 Q. And then when she lowered to the ground, how would
16 she then release from the trigger-latch shackle or
17 would she?
18 A. When she arrived on the ground and her weight was
19 off of the cable, she would pull the release.
20 Q. Okay. And so this black cord here that is attached
21 to Exhibit No. 4, did this come attached to it when
22 you ordered it from AmSpec?
23 A. Yes, it did.
24 Q. And this cord is then used to trigger the release
25 mechanism to open the trigger-latch shackle; is that

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1 A. Yes.
2 Q. And you have used it as a sole attachment between
3 either a rope or another hanging -
4 A. Between some suspension device and the performer.
5 Q. Okay. And do you recall about how many times you've
6 used this trigger-latch shackle in that manner?
7 A. A number -
8 MR. LOGAN: Object to the form of the
9 question as vague and ambiguous.
10 JUDGE GUM: Overruled. You may answer if
11 you understand the question.
12 THE WITNESS: I couldn't give you a
13 specific number of times it has been used. It's
14 been used in at least three performances, and the
15 dark entertainment industry I could not tell you how
16 many evenings that we've used it. I don't have a
17 record of that.
18 BY MS. COX:
19 Q. Okay. And what are the three performances that it
20 has been used in?
21 A. It was used in Peter Pan, it was used in
22 Il Trovatore, and it was used in A Mac Beth.
23 Q. If we could start with Peter Pan, can you tell me
24 specifically how this particular trigger-latch
25 shackle was used in Peter Pan?

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1 what you're describing?
2 A. Correct.
3 MR. LOGAN: Object to the form of the
4 question as leading and suggestive.
5 JUDGE GUM: It is leading. Sustained.
6 BY MS. COX:
7 Q. Could you demonstrate for the jury how the performer
8 would release him or herself from the trigger-latch
9 shackle?
10 A. She was instructed to grab the shackle between thumb
11 and forefinger such that she had a hold of the cable
12 as well so she could feel whether she had any weight
13 on the cable and then she was instructed to pull
14 this in order to release the shackle.
15 Q. Okay. And other than -
16 A. She simply at that point walked away and let it
17 swing free behind her leaving it.
18 Q. Okay. And other than the stepping out into the air
19 and being descended with the trigger-latch shackle
20 as the sole connection point, were there any other
21 ways in which the trigger-latch shackle was used in
22 the Peter Pan performance?
23 A. No.
24 Q. Let's talk about Il Trovatore.
25 A. Il Trovatore.

12 (Pages 45 to 48)

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49	1 Q. That. 2 A. Right. 3 Q. Let's talk about that. 4 A. Right. 5 Q. In what way was the trigger-latch shackle used in 6 that performance? 7 A. The principal performer had to walk up a cliff, a 8 cable was already attached to her at that point with 9 the shackle, and she had to fall forward off of the 10 cliff away from the audience such that this was in 11 the middle of her back, lower middle back. She was 12 wearing a climbing harness, and we used a back lower 13 pick point on that. This was run through that by a 14 stage hand. She performed for about eight or nine 15 minutes singing what's called an aria and then she 16 turned and walked up the cliff and stepped off into 17 the air with a — a black kevlar cable was her sole 18 support connected to this. 19 She was then lowered — as soon as she fell 20 forward, there were people on the rope, on the line 21 maintaining tension, so there was no slack. There 22 was no jerk on this. But as soon as she fell 23 forward out of sight, she was then lowered about 10 24 to 12 feet to the ground. 25 Q. And then when she landed on the ground, how did she
	1 would manage a 300-pound person. That wasn't what 2 we were using it for so I didn't investigate 3 further. 4 Q. And was the trigger-latch shackle used in any other 5 manner in Il Trovatore? 6 A. To me. 7 Q. Thank you. 8 A. No, it was not. 9 Q. Could you please describe for the jury how the 10 trigger-latch shackle was used in the A Mac Beth 11 performance? 12 A. In A Mac Beth, which is a version of Mac Beth that 13 is pretty far out there, if you will, it's very 14 interpretive. Lots of pyrotechnics, lots of sound 15 and light and music that you wouldn't associate with 16 a traditional Mac Beth including which is flying 17 over the heads of the audience, directly out over 18 their heads, performer swinging out over the heads 19 of the audience. 20 The stage was actually built up above their 21 heads and the audience would sit in small units 22 gazing up at the performance that occurred all 23 around them. It's a particular style 24 of theater and had a great many technical demands. 25 This was specifically used for one of the
50	51
	1 release. 2 A. She didn't. A technician was there to release it 3 for her. 4 Q. Okay. 5 A. And that technician would have released it. I don't 6 know if they would have grabbed it by the strap or 7 here. I wasn't the technician. The technician that 8 performed it knows it can be released one of two 9 ways, so whatever their preference method was. 10 Q. Can you demonstrate? 11 A. The two methods that I'm familiar with in opening 12 the shackle are pulling what was represented to us 13 by Amspec as the quick release cable. The other way 14 which it indicates on this that you use a spike to 15 open but, in fact, with a modest amount of finger 16 strength. It opens easily simply by squeezing and 17 it pops open in here. 18 Q. And you indicated that the performers that were 19 attached using this trigger-latch shackle were no 20 greater than 180 pounds? 21 A. Correct. 22 Q. Do you know what the weight limitations are for this shackle? 23 A. No, not from the manufacturer. The company from 24 which we purchased it, Amspec, represented that it
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	1 witches that delivers Mac Beth's sword to him on 2 stage, and that character had a need not only to be 3 able to fly during the performance and swing around 4 but had to be able to get off that line quickly. So 5 because she transforms into Lady Mac Beth and thus 6 has much more involvement in the rest of the scene. 7 So just because she had that need for a fast 8 release, this shackle was used to fly her. 9 Q. Okay. And where did she — where did her — when 10 you say to fly her, did she fly from one point to 11 another point? 12 A. Yes. Yes, she did. 13 Q. Could you describe that? 14 A. She started from a platform that was about 14 feet 15 up in the air at the back of the theater and she 16 stepped off of that platform after taking up her own 17 slack by simply stepping down, and there was a 18 suspension cable that ran the length of the theater 19 and the controlled her pace down that using a 20 specialized zip line trolley that has a brake on it. 21 And when she landed on stage, it was sort 22 of a runoff where she would zip down and run off 23 onto the stage and then she would release herself. 24 Q. By pulling on the cord attached to the trigger-latch shackle?

13 (Pages 49 to 52)

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<p>53</p> <p>1 A. Correct.</p> <p>2 Q. So during the A Mac Beth performance, the witch that 3 used the trigger-latch shackle, was she attached – 4 was the sole point of attachment between her and the 5 line on which she was suspended the trigger-latch 6 shackle?</p> <p>7 A. Yes, it was.</p> <p>8 Q. And did she actually fly over the audience?</p> <p>9 A. Yes.</p> <p>10 Q. And are the seats in that theater, are they –</p> <p>11 A. The theater is actually no longer existent but at 12 that time they were slightly raked.</p> <p>13 Q. Okay. And what was the highest point that she would 14 have been in the air over the heads of people in the 15 audience?</p> <p>16 A. About 22 feet. And that would have been from her 17 feet to the floor, not to the heads of the audience, 18 obviously.</p> <p>19 Q. Could you please describe to the jury specifically 20 what about this trigger-latch shackle and its design 21 is useful to you?</p> <p>22 A. The two features that are most useful to us first is 23 the heavy – is what appears to be a very heavy 24 construction, very solid construction, and the fact 25 that we felt that we could have considerable</p>	<p>55</p> <p>such that it did not have a steel ring on it, this ring right here that the lanyard is attached to.</p> <p>3 A. Yes.</p> <p>4 Q. If it did not have the steel ring attached to it, 5 would its usefulness to you be affected at all?</p> <p>6 MR. LOGAN: Object to the form of the 7 question, call for speculation.</p> <p>8 JUDGE GUM: Overruled.</p> <p>9 THE WITNESS: The difficulty in operating 10 this mechanism by way of the finger through this 11 hole where it says use a spike in order to operate, 12 if that were the sole method of releasing it, its 13 usefulness to us would be diminished. Many actors 14 simply could not operate it that way with 15 insufficient hand strength.</p> <p>16 The other part of your question is really 17 more than just the ring. It's were there any way 18 for me to attach something to it to release it that 19 way. If that didn't exist, yes, the usefulness of 20 this would be diminished to us.</p> <p>21 Is that volunteering too much information?</p> <p>22 JUDGE GUM: You're entitled to answer the 23 question any way you want to.</p> <p>24 THE WITNESS: Very good.</p> <p>25 JUDGE GUM: And if you answer yes or no,</p>
<p>54</p> <p>1 confidence in its operation, and the quick release.</p> <p>2 Q. Is there anything specific about the quick release 3 that is helpful for your user?</p> <p>4 A. As opposed to some – I'm sorry, clarify what you 5 mean, what you're looking for.</p> <p>6 Q. Okay. Is the cord that's attached to the 7 trigger-latch shackle useful to you?</p> <p>8 MR. LOGAN: Object to the form of the 9 question, leading and suggestive.</p> <p>10 JUDGE GUM: I'm sorry, I didn't hear the 11 question. Could you repeat it, please.</p> <p>12 BY MS. COX:</p> <p>13 Q. Is the cord which is attached to the trigger-latch 14 shackle, which sometimes we call that a lanyard, is 15 that useful to you in your – for your purposes?</p> <p>16 MR. LOGAN: Same objection.</p> <p>17 JUDGE GUM: Overruled.</p> <p>18 THE WITNESS: The cord that is attached to 19 it is useful. It's not necessary for its operation.</p> <p>20 BY MS. COX:</p> <p>21 Q. Okay. Could you explain that for me.</p> <p>22 A. Any type of lanyard could be attached to the ring or 23 no lanyard at all. The ring in and of itself is 24 actually quite adequate for operation.</p> <p>25 Q. Okay. If the trigger-latch shackle was designed</p>	<p>56</p> <p>1 you're entitled to explain your answer.</p> <p>2 BY MS. COX:</p> <p>3 Q. Mr. Barbeau, I'm going to hand you what has been 4 marked as Exhibit No. 5 and ask you to look at that. 5 Have you ever seen a shackle like Exhibit No. 5?</p> <p>6 A. No. No, I have not seen this particular model of 7 shackle.</p> <p>8 Q. Does that shackle have a name on it that you can 9 see? You can take it out of the bag if you need to.</p> <p>10 A. It says Gibb on it.</p> <p>11 Q. Okay. Looking at that shackle, does that shackle 12 have the same – does it appear – does this shackle 13 appear to you – let me rephrase my question. 14 Is the design of this shackle as useful to 15 you as the design of the Lewmar trigger-latch 16 shackle?</p> <p>17 MR. LOGAN: Object to the form of the 18 question. It lacks foundation. He's said he's 19 never seen the shackle before.</p> <p>20 JUDGE GUM: He may answer the question if 21 he's able to.</p> <p>22 THE WITNESS: One of the responsibilities 23 of any stunt coordinator is that you evaluate the 24 soundness of the equipment for the tasks, especially 25 since we adapt many things that are not designed for</p>

14 (Pages 53 to 56)

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1 starts, human load bearing, etcetera. We have to
2 adapt many pieces of equipment.
3 If I were asked to evaluate this my just
4 initial reaction at this moment is that all of the
5 force that would be applied against this shackle is
6 acting on a very small, perhaps not even an eighth
7 of an inch perhaps, I don't know, 3/32nds of an inch
8 piece of steel that appears to be cast.

9 So as opposed to the force acting against
10 what while it's a small step is the entire width of
11 this particular shackle. So I would be
12 significantly concerned about the load-bearing
13 qualities of this in terms of trusting it for human
14 support.

15 BY MS. COX:

16 Q. And when you're saying this, just to clarify it,
17 you're talking about Exhibit No. 5 --

18 A. Yes.

19 Q. -- the Gibb shackle? Is that what it says on it?

20 A. Yes, it is.

21 Q. Okay.

22 A. Gibb shackle, and it is marked Exhibit No. 5. So
23 the fact that this has a very convenient release
24 mechanism but that release mechanism is based on a
25 very small pin being the only thing holding it

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1 direction.

2 MS. COX: I'm sorry. I'm sorry.

3 (Reporter read pending question.)

4 JUDGE GUM: Overruled. You may answer.

5 THE WITNESS: Yes. It appears that the
6 ring provides a clear point for attachment.

7 BY MS. COX:

8 Q. I believe that you testified earlier that you
9 purchased the Lewmar trigger-latch shackle from
10 AmSpec on or about June 30th of 1998; is that an
11 accurate date?

12 A. Yes, that is accurate.

13 Q. Okay. Were you aware that prior to June 30th of
14 1998, Lewmar knew of two previous serious accidents
15 involving use of that trigger-latch shackle in stunt
16 applications?

17 A. No, I wasn't.

18 MR. LOGAN: Object to the form of the
19 question, lacks foundation.

20 JUDGE GUM: Overruled.

21 THE WITNESS: No, I was unaware of any
22 incidents related to this specific make and model of
23 shackle.

24 BY MS. COX:

25 Q. Were you aware prior to today that Lewmar

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1 closed, and I would have some concerns about that.
2 Q. And does the design of the Gibb shackle have
3 anything to which -- from your review of it right
4 now, is there anything to which you could attach a
5 lanyard of any sort?

6 A. Yes.

7 Q. What is that?

8 A. A lanyard could be run through this center hole such
9 that this spring does not have a sufficient load
10 that you could -- that it would inhibit the
11 operation of a lanyard. A lanyard could be run
12 through that load to be pulled and released to pull
13 this lever upward inside.

14 Q. Is there any ring on there that appears -- is there
15 any --

16 A. There is no clear and obviously designed attachment
17 point for a lanyard, although a lanyard could be
18 passed through this hole and made to work.

19 Q. And on the Lewmar trigger-latch shackle, is there a
20 clear place that appears to be designed for the
21 purpose of a lanyard to be passed through?

22 MR. LOGAN: Object to the form of the
23 question, leading, suggestive and lacks foundation.

24 JUDGE GUM: Would you repeat the question?
25 I'm sorry, I can't hear you when you're faced that

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1 specifically warned its customers in Europe not to
2 use a trigger-latch shackle in stunt applications?

3 MR. LOGAN: Object to the form of the
4 question, lacks foundation, misstates the record.

5 JUDGE GUM: Overruled.

6 THE WITNESS: I was -- the yes/no answer is
7 yes, I was aware. When I was contacted by one of
8 your associates from your office, they informed me
9 after an initial interview conversation that there
10 were indeed some incidents and this warning had been
11 issued.

12 BY MS. COX:

13 Q. And prior to that?

14 A. No.

15 Q. Prior to your involvement or being contacted in
16 connection with this lawsuit, were you aware that
17 Lewmar had warned its distributors in mid Europe not
18 to sell this trigger-latch shackle for use in stunt
19 applications?

20 A. No, I wasn't.

21 MR. LOGAN: Object to the form of the
22 question, lacks foundation, misstates the record.

23 JUDGE GUM: Overruled.

24 THE WITNESS: No, I was not.

25 BY MS. COX:

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1 Q. How did you learn about Amspec?
2 A. I believe they were recommended to me by a friend
3 who also works in the stunt industry who's a
4 resident in LA.
5 Q. And was there a specific purpose for which you
6 purchased – initially purchased the Lewmar
7 trigger-latch shackle?
8 A. Yes.
9 Q. What was that?
10 A. That was our stunt show at the Michigan Renaissance
11 Festival that started in 1999.
12 Q. Okay. And did you use the Lewmar trigger-latch
13 shackle at that show?
14 A. Yes.
15 Q. Do you recall the packaging that the Lewmar
16 trigger-latch shackle came in?
17 A. No, I do not.
18 Q. Do you recall whether you were informed that the
19 trigger-latch shackle, the Lewmar trigger-latch
20 shackle was inappropriate for use in stunt work?
21 MR. LOGAN: Object to the form of the
22 question, lacks foundation, calls for speculation.
23 JUDGE GUM: Overruled.
24 THE WITNESS: I was not informed by Amspec
25 nor did I receive any materials that I recall with

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1 between two points that can be quickly released when
2 you take an affirmative action to release it?
3 MR. LOGAN: Object to the form of the
4 question, lacks foundation, calls for speculation
5 and is vague and ambiguous.
6 JUDGE GUM: Overruled. He may answer if he
7 understands the question.
8 THE WITNESS: You want to read the question
9 back to me again?
10 (Reporter read pending question.)
11 THE WITNESS: No.
12 BY MS. COX:
13 Q. Have you ever received any warning that the use of
14 the trigger-latch shackle should be limited in some
15 fashion?
16 MR. LOGAN: Object to the form of the
17 question, vague and ambiguous.
18 JUDGE GUM: Overruled.
19 THE WITNESS: Prior to the contact by your
20 office, no.
21 BY MS. COX:
22 Q. Right. Are you aware that we are here today in a
23 lawsuit involving the death of a professional
24 wrestler, Owen Hart?
25 A. Yes.

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1 the device informing that it was not appropriate for
2 the purchase – for the purpose for which I was
3 purchasing it.
4 BY MS. COX:
5 Q. And were you informed at any time that the
6 trigger-latch shackle had a history of inadvertent
7 releases?
8 MR. LOGAN: Object to the form of the
9 question.
10 THE WITNESS: No.
11 MR. LOGAN: Lacks foundation, misstates the
12 record.
13 JUDGE GUM: Overruled.
14 THE WITNESS: No, I was not.
15 BY MS. COX:
16 Q. Were you informed at any time that using the
17 trigger-latch shackle to suspend a human being could
18 pose a significant risk of danger to that person?
19 MR. LOGAN: Same objection.
20 JUDGE GUM: Overruled.
21 THE WITNESS: No.
22 BY MS. COX:
23 Q. Were you informed at any time that there was any
24 reason that the trigger-latch shackle should not be
25 used anywhere that you need a strong connection

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1 Q. Are you aware that Mr. Hart fell from the – from
2 Kemper Arena – in Kemper Arena in Kansas City,
3 Missouri as he was being lowered from the roof of
4 Kemper Arena down to the wrestling ring?
5 A. Yes, I am aware of that.
6 Q. Are you aware at the time that he fell the sole
7 connection point between Mr. Hart and the jerk vest
8 that he was wearing and the descending rope was the
9 trigger-latch shackle?
10 A. Yes, I am but I was informed of that by your office.
11 Q. Okay. So prior to your involvement with this
12 lawsuit, you did not know that?
13 A. No.
14 Q. And as of today, has Lewmar or any representative
15 from Lewmar made any attempt to advise you of the
16 dangers associated with using a trigger-latch
17 shackle to suspend a human being?
18 MR. LOGAN: Object to the form of the
19 question, vague and ambiguous.
20 JUDGE GUM: Overruled.
21 THE WITNESS: No.
22 BY MS. COX:
23 Q. As of today, has Lewmar or any representative of
24 Lewmar made any attempt to advise you of the dangers
25 associated with using the trigger-latch shackle in

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1 any stunt application?
2 MR. LOGAN: Object to the form of the
3 question, vague and ambiguous, lack of foundation,
4 calls for speculation.
5 JUDGE GUM: Overruled. You may answer the
6 question if you understand it.
7 THE WITNESS: No. No one has made contact
8 with me to the best of my knowledge or made any
9 attempt to contact me to the best of my knowledge.
10 BY MS. COX:
11 Q. And prior to being contacted by counsel for WWE, did
12 you have any reason to believe that using the
13 trigger-latch shackle to suspend a human being
14 during a performance was unsafe?
15 MR. LOGAN: Object to the form of the
16 question, leading and suggestive.
17 JUDGE GUM: Overruled.
18 THE WITNESS: I knew that the trigger-latch
19 shackle was not originally developed for the stunt
20 industry and that it was an adaptation of use but I
21 was never told nor did I have any direct experience
22 with it failing in any fashion. So I believed it to
23 be a safe and solid unit for the use that we were
24 engaging in it.
25 BY MS. COX:

1 Q. And, in fact, as we discussed earlier, there is no
2 maker - or let me ask you directly. Is there any
3 maker of shackles that makes shackles specifically
4 for the stunt industry?
5 A. Not to the best of my knowledge. And if I can
6 elaborate just slightly, because of this exact
7 circumstance, liability issues, most people in this
8 industry will tend to manufacture their own and use
9 it themselves and not provide it to anyone else.
10 The fact that you can find devices and adapt them is
11 a very normal procedure for us.
12 Q. And that is common in the stunt industry?
13 A. Yes.
14 Q. Are you aware of any other people in the stunt
15 industry in the United States who use Lewmar
16 trigger-latch shackles?
17 A. No.
18 Q. If you had been told by Lewmar that its
19 trigger-latch shackle had a history of inadvertently
20 releasing when under load, would you have used it in
21 the applications that you've described to us today?
22 MR. LOGAN: Object to the form of the
23 question, lack of foundation, misstates the record,
24 calls for speculation.
25 JUDGE GUM: Overruled.

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1 THE WITNESS: No.
2 BY MS. COX:
3 Q. And if Lewmar had told you that its trigger-latch
4 shackle was unsafe to use with suspending a human
5 being, would you have used it to suspend a human
6 being?
7 MR. LOGAN: Same objections.
8 JUDGE GUM: Overruled.
9 THE WITNESS: No, we would not have used
10 it.
11 BY MS. COX:
12 Q. There's been testimony in this case and documents in
13 this case that Lewmar informed its distributors in
14 mid Europe not to sell the trigger-latch shackle for
15 stunts application because of accidents involving
16 stunts applications in mid Europe.
17 If Lewmar had passed that same information
18 on to you, would you have purchased the
19 trigger-latch shackle?
20 MR. LOGAN: Objection to the form of the
21 question, misstates the record.
22 JUDGE GUM: Overruled.
23 THE WITNESS: Not for this purpose.
24 BY MS. COX:
25 Q. My final question for you is -

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1 JUDGE GUM: Cross-examination.
2 MS. COX: Oh, no, no. I said my final
3 question.
4 JUDGE GUM: Oh, sorry.
5 BY MS. COX:
6 Q. Because you didn't have this information, because
7 Lewmar chose not to provide it, have you unknowingly
8 placed people in dangerous situations?
9 MR. LOGAN: I'm going to object to the form
10 of the question, it misstates the record and calls
11 for speculation and it's leading and suggestive.
12 JUDGE GUM: Sustained.
13 MS. COX: No further questions.
14 JUDGE GUM: Cross-examination.
15 EXAMINATION
16 BY MR. LOGAN:
17 Q. Mr. Barbeau, how you doing?
18 A. I'm managing okay. If I could actually grab a
19 little water.
20 VIDEO TECHNICIAN: Off the record - you
21 want to go off the record - 4:42 p.m.
22 (A brief recess was taken.)
23 VIDEO TECHNICIAN: Back on the record 4:43.
24 BY MR. LOGAN:
25 Q. Mr. Barbeau, I want to go back to the topic that you

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1 finished with and Ms. Cox was asking you if you had
2 received certain information from Lewmar or Amspec
3 would you have used the trigger-latch shackle in the
4 manner in which you used it. Do you recall that
5 testimony?

6 A. Yes.

7 Q. The trigger-latch shackle that you've produced for
8 us today, that is still part of your equipment that
9 you use?

10 A. It was until I received a call from the office, the
11 other office, yes.

12 Q. And when you went to retrieve the shackle that you
13 produced for us today, where was that?

14 A. That was with our fly gear.

15 Q. The shackle was still part of your equipment?

16 A. Yes.

17 Q. And you need that shackle back; isn't that right?

18 A. If it is not safe for human use, while I spent a
19 considerable amount of money on it and would not
20 willingly part with it, on that basis I wouldn't
21 suspend a human from it. Certainly not as a sole
22 source of support.

23 Q. Didn't you tell us that you needed that shackle back
24 for a performance in June of this year?

25 A. Yes, I did.

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1 Q. That was a telephone interview?

2 A. Correct.

3 Q. And how long did that interview last?

4 A. Twenty minutes perhaps, 18 to 20 minutes.

5 Q. Can you tell me what that associate told you during
6 that interview?

7 A. The associate, after eliciting information from me
8 regarding did I purchase this product, did we use it
9 in a specific fashion for human use, informed me
10 that there was an instance of failure and they were
11 involved in defending or they were involved in a
12 lawsuit associated with this product and the death
13 of a stunt person. And there were some more
14 elaborate details in terms of it being in Kansas,
15 etcetera. In fact, I recalled the individual at
16 that point and the event but the rest of the
17 conversation was fairly innocuous.

18 Q. Do you remember the date of that conversation?

19 A. I'm afraid I do not.

20 Q. Was it within the last year?

21 A. It was at the most two months ago.

22 Q. Do you know how the associate that contacted you got
23 your name?

24 A. I actually inquired and they said they had been in
25 touch with Amspec.

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1 Q. And what performance was that?

2 A. That performance is down at the Medieval Fantasy
3 Fair.

4 Q. So that shackle is - that Lewmar shackle is still
5 used in your performances?

6 A. We have plans to use it, yes.

7 Q. Your testimony was that you would not use that
8 shackle as a sole means of support; is that right?

9 A. Correct.

10 Q. You have been contacted by the attorneys for WWE,
11 World Wrestling Entertainment or World Wrestling
12 Federation?

13 A. That's your office?

14 MS. COX: Yes.

15 THE WITNESS: Yes.

16 BY MR. LOGAN:

17 Q. On how many occasions have you been contacted?

18 A. Twice. Once for an interview and once to let me
19 know about this instance.

20 Q. When you say this instance?

21 A. This deposition.

22 Q. And who contacted you concerning the interview?

23 A. I don't remember the associate's name from the firm.

24 Q. Was it a male or female?

25 A. It was a female.

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1 Q. Did you understand from that conversation that this
2 lawsuit involved a death of a stunt person?

3 A. Yes.

4 Q. Was that the information that was given to you by
5 the associate?

6 A. Yes.

7 Q. And when you say a stunt person, is that someone
8 that has training in performing stunts?

9 A. Yes.

10 Q. Is that how you understood that?

11 A. Yes.

12 Q. Do you know that the person that died surrounding
13 this lawsuit was Owen Hart?

14 A. Yes.

15 Q. Do you know if Mr. Hart had any training in
16 performing stunts?

17 A. In performing stunts, yes. In performing this
18 specific stunt, I have no idea.

19 Q. You have an understanding that Mr. Hart had training
20 in performing stunts?

21 A. Any big time wrestler, and I have trained with some
22 of them, has considerable stunt training.

23 Q. What kind of stunt training?

24 A. Fighting; falling; rolling; taking hits; selling
25 hits, meaning we act as if we'd been hit as opposed

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18 (Pages 69 to 72)

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73 1 to actually having to endure the impacts; blood
2 work, how to make blood devices work; a lot – some
3 gymnastics, depending on their individual ability,
4 but specifically flying stunts, that's not – when
5 you go to school to become a big time wrestler,
6 that's not part of any curriculum of which I'm
7 aware.

8 Q. And the stunts that you were describing - taking
9 hits, selling hits, those are stunts that would be
10 performed in the ring?

11 A. Not necessarily. Big time wrestling often spills
12 out over the ring but yes, in front of an audience.
13 In front of a proximate audience.

14 Q. As part of a wrestling match?

15 A. Correct.

16 Q. And you have no idea whether Mr. Hart had any
17 training in performing this kind of aerial descent
18 that he was –

19 A. No.

20 MS. COX: Objection.

21 BY MR. LOGAN:

22 Q. I'll finish the question, you can object, then
23 Mr. Barbeau can answer.

24 JUDGE GUM: Let's proceed.

25 BY MR. LOGAN:

75 1 a stunt?

2 A. Yes.

3 Q. On what occasions have you called off a stunt?
4 A. Many occasions. I would be hard pressed to identify
5 all of them for you. But in circumstances that play
6 into that, environmental factors, since I perform
7 very often outside; wet stages; high winds, higher
8 than what we consider acceptable winds. We've had
9 performers simply back out and decide that tonight
10 they weren't ready for that stunt, particularly high
11 falls. If a stuntman looks down and says today is
12 not the day I can do this, then you call the stunt.

13 Q. And are those reasons for calling off the stunt in
14 connection with the safety?

15 A. Yes.

16 Q. The stunt could not be performed safely?

17 A. Correct.

18 MS. COX: Objection; leading.

19 JUDGE GUM: Overruled.

20 THE WITNESS: Correct.

21 BY MR. LOGAN:

22 Q. Have you ever had an occasion to descend a performer
23 from a height of 60 feet?

24 A. Yes.

25 Q. On how many occasions?

74 1 Q. You don't have any knowledge that Mr. Hart had any
2 training in performing this kind of aerial descent
3 stunt?

4 MS. COX: Objection; leading.

5 JUDGE GUM: Overruled.

6 THE WITNESS: I have no personal knowledge
7 of Mr. Hart's training with respect to this stunt.

8 BY MR. LOGAN:

9 Q. You said that when you – well, let me go back a
10 step before I get there. If I understand your
11 testimony, there are several factors that go into
12 designing a stunt; is that right?

13 A. Yes.

14 Q. And your overall concern is safety?

15 A. Yes.

16 Q. And then you also have to consider the look that the
17 director is trying to achieve?

18 A. Yes.

19 Q. And you also have to consider the actor's comfort
20 level with performing the stunt?

21 A. Yes.

22 Q. And you told us those things that you would do in
23 order to train an actor in performing a stunt.

24 A. Yes.

25 Q. And have you had occasion in your career to call off

75 1 A. Let me be specific. The way you're using the word
2 descend, my answer is no, I suspect, if you can
3 clarify you mean descend. We have repel which is a
4 special type of descent from more than 60 feet. But
5 I have never used a descending device like this in
6 this type of rigging we have described to go from
7 that height.

8 Q. Do you have an understanding as to the type of
9 rigging that was used in connection with the stunt,
10 the aerial descent Mr. Hart was to perform?

11 A. No, I do not.

12 Q. Do you know the kind of equipment that was used?
13 A. I am not familiar with the setup of this particular
14 stunt or the rigging of this particular instance.

15 Q. Are you aware that the sole connection between
16 Mr. Hart's Ampec vest that he was wearing and the
17 line was a Lewmar trigger-latch shackle?

18 A. I have been informed of that but only during this
19 deposition.

20 Q. Could you describe for me the instance in which you
21 have repelled a performer from a height of 60 feet
22 or more?

23 A. During a performance during half time of the Detroit
24 Pistons, one of the Detroit Pistons' games we
25 repelled out of the roof rafters. There's platforms

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1 up there. There are all kinds of sky walkers, and we
2 repelled to the floor of the stadium using climbing
3 gear appropriate for this sort of repel.
4 Q. What kind of equipment?
5 A. We were using figure eight descenders.
6 Q. And that figure eight descender is a method of
7 controlling the speed of the descent?
8 A. Correct. It's a device that routes the line through
9 a series of loops providing sufficient friction for
10 the performer of the stunt to control the rate at
11 which they're descending simply by relaxing or
12 squeezing harder on the rope directly with their
13 hand.
14 Q. What kind of rope were you using?
15 A. We were using climbing line, static climbing line.
16 Q. What was your connection point to the rope?
17 A. The connection point to the rope was through a
18 climbing harness pick point, a carabiner and then
19 to the descender.
20 Q. What kind of carabiner?
21 A. Petzel, I believe. Although we have 15 or 20, I
22 believe most of them are Petzel.
23 Q. Is it a locking carabiner?
24 A. Yes.
25 Q. Do you have any redundancy in that repel?

79

1 I'm describing? I want to make sure we're on the
2 same page.
3 A. That a performer is not in control of their own
4 descent directly but someone else or some mechanism
5 is engaged in physically lowering them while they
6 maintain their concentration elsewhere.
7 Q. When you talked about doing – or training a
8 performer to perform a stunt, and you're training an
9 actor to perform a stunt –
10 A. Correct.
11 Q. – one of the training methods was to have that actor
12 do a rehearsal; is that right?
13 A. Yes.
14 Q. When you do a rehearsal with an actor, do you have
15 the actor perform the stunt in costume?
16 A. Yes.
17 Q. Is that important?
18 A. It is critically important.
19 Q. Why is that?
20 A. Costume affects their balance, their ability to
21 move, and their ability to access all of these
22 connection points with respect to this specific type
23 of a stunt. So their ability to reach the loops and
24 hooks and releases and manage the line around what
25 is often in my particular area of performance

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1 A. No. It was a single-line repel.
2 Q. Did you understand the term redundancy?
3 A. Yes.
4 Q. How do you understand that term?
5 A. That there is more than one point of attachment to
6 the support line or that there is more than one line
7 running to the performer of a stunt.
8 Q. The repel that you did from the rafters during the
9 Detroit Pistons game, was that as part of your –
10 A. Yes.
11 Q. – Ring of Steel?
12 A. Yes, it was.
13 Q. And all of those persons that descended were
14 trained?
15 A. Yes.
16 Q. And were they all members of Ring of Steel?
17 A. They were all members of Ring of Steel in good
18 standing and they were all trained in specifically
19 repelling. Not everyone in the group trains in the
20 same activities or has the same interests.
21 Q. On what other occasion have you – let me go back to
22 my original question. Have you ever descended a
23 performer from a height of 60 feet?
24 A. Not in the method that you're describing.
25 Q. Okay. And what is your understanding of the method

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1 medieval and renaissance activities, the costumes
2 are often quite full and lots of folds of cloth so
3 it's important that they rehearse in the garb that
4 they're going to be performing the stunt in front of
5 an audience.
6 Q. Do you know if Mr. Hart received any training in the
7 performance of the aerial descent that he was
8 scheduled to perform?
9 A. I have no knowledge.
10 Q. When Ms. Cox asked you about how you learned about
11 Amspec, you said that you had believed – you
12 believed that they had been recommended to you by a
13 friend.
14 A. Yes.
15 Q. Who was that?
16 A. His name is Brian Thomas. He is a resident in one
17 of the subdivisions of Los Angeles, and my
18 associations with Mr. Thomas goes back to 1990 at
19 the Michigan Renaissance Festival where he and I
20 were co-performers in a show. We were part of a
21 team together for seven years.
22 Q. And did Mister – when did Mr. Thomas make the
23 recommendation to you concerning Amspec?
24 A. When we were researching the devices necessary for
25 the upcoming show, so certainly in 1997, 1998.

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1 THE WITNESS: Not such that I was aware
2 they were a Lewmar product.

3 BY MR. LOGAN:

4 Q. You testified that that quick-release device,
5 Exhibit 5, was not manufactured for use in the stunt
6 industry.

7 MS. COX: Objection; misstates his
8 testimony.

9 JUDGE GUM: Overruled.

10 THE WITNESS: I was – I'm sorry, ask the
11 question again.

12 BY MR. LOGAN:

13 Q. Do you know the purpose – do you know the purpose
14 why that trigger-latch shackle was manufactured?

15 A. I did not at the time that I was purchasing it.

16 Q. Have you since learned its purpose?

17 A. I was made aware –

18 MS. COX: Objection; calls for speculation.
19 Go ahead.

20 JUDGE GUM: Overruled.

21 THE WITNESS: I was made aware of its
22 nautical origin during the conversation with the
23 associate from your firm. What's the name of the
24 firm again?

25 MS. COX: Bryan Cave.

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1 a performer to reach up and take hold of this while
2 they were suspended by it. They were instructed
3 specifically not to do that.

4 Q. And you can tell by looking at the design of that
5 Lewmar trigger-latch shackle that it is designed to
6 release under load?

7 A. Yes.

8 Q. This is kind of where I started my
9 cross-examination, Mr. Barbeau, and that was
10 with the fact that you have plans to use that
11 quick-release device in a performance in June of
12 this year?

13 A. Yes.

14 Q. And do you consider that there are appropriate uses
15 then for a quick-release device in the shows that
16 you work on?

17 A. Yes.

18 MS. COX: Objection; vague and ambiguous.
19 JUDGE GUM: Overruled.

20 BY MR. LOGAN:

21 Q. What are those uses?

22 A. The use that we plan for this is we'll be flying in
23 a 40-pound bird that's a fake and that bird then
24 needs to be released off the line quickly. I would
25 use this for anything that didn't go over the heads

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1 THE WITNESS: Bryan Cave.

2 (Deposition Exhibit No. 5 was marked.)

3 BY MR. LOGAN:

4 Q. When you received this shackle, Exhibit 5, and you
5 saw the language use spike to open, did you – what
6 did that mean to you?

7 A. It confused me when I read that because it did work
8 with a simple finger pull. So I was unclear on what
9 that could possibly mean, but perhaps there was some
10 functionality to it of which I was unaware.

11 Q. Did you ever have the performers that use the
12 quick-release device release themselves with the
13 finger pull?

14 A. The answer to your question is no, they – the
15 performers use this. The technicians that released
16 it did utilize this pull.

17 Q. Are you aware that the Lewmar trigger-latch shackle
18 is designed to release quickly under load?

19 A. No. And my experience has been that we never
20 allowed a performer to release this while it was
21 under load. Its design tells me that it can be
22 released under load, otherwise the hinge would not
23 be constructed in this fashion, but I never allowed

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1 of the audience and anything that wasn't human at
2 this point, having learned what I have learned about
3 it.

4 For me, I still – I don't have any or
5 rarely have had any call to release something under
6 load. So at least to date I haven't been called on
7 first on a show to do that. No Water Worlds.

8 Q. Do you have any understanding that the trigger-latch
9 shackle that was used in the Owen Hart stunt failed
10 to operate in the way that it was designed to
11 operate?

12 MS. COX: Objection; calls for speculation,
13 lacks foundation. He already testified he doesn't
14 know anything about the setup of that.

15 JUDGE GUM: He may answer if he knows.

16 THE WITNESS: Ask it –

17 MR. LOGAN: Could you read it back?
(Reporter read pending question.)

18 THE WITNESS: No, I do not.
19 Excuse me, Your Honor, I need a moment. I
20 just received a high-level urgency page from my
21 wife. I have a three-year-old and an
22 eight-month-old at home so I need to at least check
23 in.

24 VIDEO TECHNICIAN: Off the record 5:41.

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1 much. Flying and being dangling in the air, that's
2 an entirely different matter.

3 Q. Okay. And was this the first time that these actors
4 actually dangled in the air?

5 A. Yes.

6 Q. So if you had an actor who had previously done a
7 descent from the same height as the descent that he
8 was being asked to do now and the only difference
9 was that the trigger-latch shackle was being used,
10 would it take you one to two weeks to train that
11 person?

12 MR. LOGAN: I'm going to object to the form
13 of the question as leading and suggestive.

14 JUDGE GUM: It is but you may answer.

15 THE WITNESS: The difficulty with the stunt
16 really lies in the confidence of the individual and
17 their ability to perform it. Training them in a
18 particular protocol and how quickly they grasp that
19 protocol and are able to comfortably execute it, I
20 insist on as many iterations as it takes before I'm
21 confident in their ability and they're confident and
22 they express confidence in their ability.

23 So the answer is no, it might not take two
24 weeks. It may take only 20 minutes. It may take
25 two minutes for me to tell one of my stunt

113 release.

2 BY MS. COX:

3 Q. That's not my question. Maybe I should rephrase
4 that. My question is what is required. Let's say
5 assuming that the trigger-latch shackle is under a
6 load, what is required for it to be released?

7 A. That's very different than the design of it.

8 Q. Right.

9 A. Because I indicated that it was designed to release
10 under load even though I didn't use it that way.

11 Q. Right.

12 A. For this to release under load you simply have to
13 pull the release.

14 Q. And if the release is not pulled, do you expect that
15 the trigger-latch shackle would unlatch simply
16 because it's designed to be able to release under
17 load?

18 MR. LOGAN: Objection to form, leading and
19 suggestive.

20 JUDGE GUM: Sustained.

21 BY MS. COX:

22 Q. Is it your understanding that the design of the
23 trigger-latch shackle would cause it to come
24 unlatched simply because it's under load?

25 A. No.

114 1 professionals oh, yeah, we're doing something
2 differently this time, I need you to do this, this
3 and this and make certain you do it in this order.
4 And, you know, they look me in the eye and we nod
5 and we go do the performance. But my guys train 51
6 weeks a year. That's not on the same order of
7 magnitude as some actress who's going to do it one
8 time in her whole career.

9 BY MS. COX:

10 Q. In response to Mr. Logan's questioning, you talked
11 about a trigger-latch shackle as being designed to
12 release under a load. Do you recall that?

13 A. Yes.

14 Q. What would be required or what is your understanding
15 of what is required in order for the trigger-latch
16 shackle to be released under load?

17 A. Two factors would – well, I was expecting an
18 objection if I were you. So there are two factors
19 that would –

20 MR. LOGAN: I would move to strike that
21 comment.

22 THE WITNESS: Sorry. I've been here a long
23 time and I'm totally sugar crashed at this point.

24 There are two factors that I would look for
25 in identifying how a shackle was designed to

116 MS. COX: I have no further questions.

2 JUDGE GUM: Any re-cross?

RE-EXAMINATION

4 BY MR. LOGAN:

5 Q. One quick question, Mr. Barbeau. Did you order
6 the products from AmSpec that are referred to on
7 Exhibit 2 while you were on the telephone or after
8 you received the catalog?

9 A. While I was on the telephone. And the catalog
10 arrived with the merchandise.

11 MR. LOGAN: That's all I have. Thank you.
12 JUDGE GUM: All right. Thank you very
13 much. You're free to go.

14 VIDEO TECHNICIAN: Deposition concluded
15 5:56 p.m.

16 (Deposition concluded 5:56 p.m.)

29 (Pages 113 to 116)